



Crl.O.P.(MD) No.11407 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11407 of 2022

and

CrL.M.P(MD) Nos.7210 and 7211 of 2022

1. Vincent D.Rajan
2. Petter Rayappan
3. Arul Xevier
4. Johnson

... Petitioners/ Accused No. 1 to 4

Vs

- 1.The State Represented by
The Inspector of Police,
Keelathuval Police Station,
Ramanathapuram District.
(Crime No.1 of 2014)

... 1st Respondent/Complainant

2. Shanthi

... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, praying to call for the records relating to the charge sheet filed by the Judicial Magistrate Court, Mudukulathur in C.C.No.238 of 2017 and to quash the same.

For Petitioners : Mr.K.Sudalaiyandi
For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor for R.1



Crl.O.P.(MD) No.11407 of 2022

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.238 of 2017 on the file of the Judicial Magistrate Court, Mudukulathur.

2. The case of the petitioners, is as follows:

The first petitioner is the Chairman of Thiru Iruthuyamary Higher Secondary School, Thiruvarangam. The second petitioner is the Headmaster of the said school. The petitioners 3 and 4 are Class Teacher and Hostel Warden of the school. On 02.01.2014, the school was reopened after half-yearly examination holidays. The son of the second respondent – Satheeshkanth was studying 10th Standard – C Section in the said school and he returned to the Hostel on the reopening day, viz., 02.01.2014. However, he did not attend the class on that day and he committed suicide by hanging in the Study Room of the Hostel between 03.00 p.m., and 04.00 p.m. The same was informed to the second respondent over phone and she, along with her relatives, came to the school and lodged a complaint against the petitioners stating that they are responsible for the death of her son. Based



Crl.O.P.(MD) No.11407 of 2022

on the said complaint, the first respondent registered a case in Cr.No.1 of 2014 on 02.01.2014 under Section 174 Cr.P.C and thereafter, due to the demonstrations of the second respondent and her relatives, on 03.01.2014, the first respondent altered the provisions into Section 304(A) I.P.C. After investigation, the first respondent filed the charge sheet before the learned Judicial Magistrate, Mudukulathur, who took cognizance of the charge sheet filed by the first respondent in C.C.No.238 of 2017 and issued summons to the petitioners. The petitioners appeared before the Judicial Magistrate Court, Mudukulathur and the matter has been posted for trial. Seeking to quash the said charge sheet, the petitioners have filed the present Criminal Original Petition.

3. The learned Counsel for the petitioners submitted that the petitioners have not committed any offence as projected by the prosecution and there is no act of negligence on the part of the petitioners for the act of suicide committed by the son of the second respondent/de-facto complainant. The deceased son of the second respondent had not studied properly and indulged in copy writing in the examination and therefore, he was instructed to bring his parents to the school on the reopening day, viz.,



Crl.O.P.(MD) No.11407 of 2022

02.01.2014. On that day, the deceased without attending the class, went to the Hostel and committed suicide by hanging. The petitioners are not responsible for the said incident and hence, he prays for allowing this petition.

4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that in this case, the petitioners are the accused and the deceased Satheeshkanth was studying 10th Standard and on 02.01.2014, he committed suicide in the hostel between 03.00 p.m to 04.00 p.m., and due to the negligence on the part of the petitioners alone, the incident had happened and after investigation, the charge sheet has been filed and the same has been taken on file. In the meanwhile, the petitioners filed a discharge application, which was allowed, against which, a revision was preferred and the same was allowed and therefore, this petition is not maintainable and prayed for the dismissal of this petition as it is a matter for trial.



Crl.O.P.(MD) No.11407 of 2022

5. The Hon'ble Supreme Court in **Indian Oil Corporation vs. NEPC**

India Limited and others [(2006)6 SCC 736] laid down the principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings, which are relevant for the present purpose are:-

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.



(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.



Crl.O.P.(MD) No.11407 of 2022

WEB COPY

6. Perusal of the records would reveal that the petitioners are the accused in C.C.No.238 of 2017 on the file of the learned Judicial Magistrate, Mudukulathur. The petitioners were prosecuted by the respondent police for having negligent in discharging their duties, which lead to the deceased committing suicide on 02.01.2014 between 03.00 p.m and 04.00 p.m at the school hostel. On completion of investigation, the prosecution laid the charge sheet which was taken on file in C.C.No.238 of 2017.

7. On perusal of the records, it is seen that the first petitioner is the Chairman of Thiru Iruthuyamary Higher Secondary School, Thiruvarangam. The second petitioner is the Headmaster of the said school. The petitioners 3 and 4 are Class Teacher and Hostel Warden of the school. The deceased student indulged in malpractice in the half-yearly examinations, he was warned, he was asked to bring his parents on the reopening day. On 02.01.2014, he, instead of attending the class, went to the hostel and committed suicide by hanging. The petitioners are negligent in discharging their duties. The deceased student was in the entire control of the school



Crl.O.P.(MD) No.11407 of 2022

authorities and the incident happened during the school hours between 03.00 p.m., and 04.00 p.m., in the hostel. The stand of the petitioners that they are not aware of the said incident, is nothing but negligence on their part in discharging their duties.

8. Therefore, the disputed fact has to be decided the trial Court only at the time of trial based on the evidence adduced by the prosecution. In the opinion of this Court, it is not appropriate to quash the criminal proceedings against the petitioners at this stage and this Court finds no merit in this petition.

9. On perusal of the charge sheet and the statement of witnesses shows that *prima facie* an offence and allegation made therein will have to be taken on the face value. If it could not be said that their prosecution would amount to an abuse of process of the Court, invoking inherent power, prior to the commencement of trial and leading of evidence, to quash prosecution is not desirable. Power should be exercised only in exceptional cases. Hence, I find no merit in the Criminal Original Petition.



Crl.O.P.(MD) No.11407 of 2022

10. At this stage, it cannot be quashed. Therefore, I find no merit in this criminal original petition and the same is dismissed. Consequently the connected Miscellaneous Petitions are closed.

27.06.2022

Internet: Yes./No
Index: Yes/no
ebsi

To

1. The Judicial Magistrate Court,
Mudukulathur.
2. The Inspector of Police,
Keelathuval Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.11407 of 2022

V.SIVAGNANAM, J.

ebsi

ORDER IN
CRL.O.P (MD) No.11407 of 2022

27.06.2022